

## Metropolitan King County Council

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## MEMORANDUM

**DATE:** September 28, 1999

**TO:** Metropolitan King County Councilmembers

**FROM:** Don Eklund, County Auditor

**SUBJECT:** Special Study: Disposition of Firearms

Attached for your review is the special study report of Disposition of Firearms. The study objectives were to determine if the county's practices in the disposition of firearms were in compliance with state and local laws, and to evaluate the fiscal impact of those practices.

The general study conclusions were that the Sheriff's Office is not in compliance with county code requirements for the disposition of firearms and that compliance with the code will reduce revenues from firearms trades by approximately one-third.

The Sheriff's response to specific study findings and recommendations is incorporated into the body of the report and the entire response is included as Appendix 4. It outlines the steps the Sheriff's Office will take to implement the study recommendations, with one exception. The response indicates that implementation of the automated Tracking Evidence and Supply System (TESS) will not be completed by February 2000, due to the uncertainty of technology funding. However, the completion date of February 2000 in the recommendation was based on discussions with Sheriff's Office personnel during the technical review of the draft report. Lack of funding for the system was never raised as an issue.

The response also states that the Sheriff's Office was in compliance with county code requirements as of December 1998. However, this is not borne out by the facts discussed in Finding 2-1. The finding is based in part on the office's list of weapons to be traded, which was reviewed by audit staff in April 1999. Forty percent of the weapons on the list were handguns that should be destroyed, per the code. Finally, the response states that an additional six full-time equivalent positions are needed in the Property Management Unit. Audit staff would like to make clear that none of the study recommendations calls for the addition of any FTEs, nor do we believe that any of the findings in the report justify such an increase.

We would like to thank the staff of the Property Management Unit for their excellent cooperation during the study process. We would also like to express our appreciation to the Prosecuting Attorney's Office for their opinion on state law regarding the disposal of firearms.

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Firearms\areport.doc

# **SPECIAL STUDY**

## **DISPOSITION OF FIREARMS**

Presented to  
the Metropolitan King County Council  
by the  
County Auditor's Office

Don Eklund, King County Auditor  
Nancy McDaniel, Management Auditor

Report No. 99-06

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## **Abbreviations**

ATF	Bureau of Alcohol, Tobacco and Firearms
DPS	Department of Public Safety
KCSO	King County Sheriff's Office
PAO	King County Prosecuting Attorney's Office
PMU	Property Management Unit
RCW	Revised Code of Washington
SOPs	Standard Operating Procedures
TESS	Tracking Evidence and Supply System

# REPORT SUMMARY

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## **Introduction**

The special study of the disposition of firearms was requested by the Metropolitan King County Council. The objectives of the study were to determine if the county's practices in the disposition of firearms were in compliance with state and local laws and to evaluate the financial impact of those practices.

## **General Conclusions**

The study concluded that the Sheriff's Office is not complying with county code requirements for the disposition of firearms and that compliance with the code will reduce revenues from weapons trades by approximately one-third.

## **Background**

The Property Management Unit (PMU) in the Sheriff's Office disposes of unclaimed firearms, firearms that have been ordered forfeited by a court, and the Sheriff's Office's own surplus weapons. The weapons are traded for new service firearms or destroyed by melting them down.

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## **MAJOR FINDINGS AND RECOMMENDATIONS**

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### **FINDING 2-1 (Page 5)**

#### **The Sheriff's Office Is Not Complying With County Code Requirements for Firearms Disposal.**

The King County Code requires that all handguns that do not meet its definition of weapons of potential value\* be destroyed. However, the Sheriff's Office has been trading all firearms except those that are unsafe or illegal. Forty-one percent of the weapons traded since 1997 and 40% of the weapons currently ready to trade were handguns that did not meet the definition of potential value and so should have been destroyed. The code also requires that if handguns of potential value or surplus

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\* Per the code, a handgun of potential value must be: valued at \$150 or more; accepted as a duty weapon by law enforcement agencies; and made by one of eleven listed manufacturers.

service weapons are traded, the trade must be for handguns. One trade that included handguns was for police equipment, and another trade of surplus weapons was for rifles.

**The study recommended** that the Sheriff's Office rewrite its Standard Operating Procedures to be consistent with the county code requirements for the disposition and trade of firearms.

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### **FINDING 2-2 (Page 8)**

**Since 1997, the Sheriff's Office Has Acquired All of Its New Weapons Through Trades. However, Compliance With the Code Will Reduce Revenues From Trades by Approximately One-Third.**

Since 1997 the PMU has traded 2,277 weapons and received \$155,800 worth of firearms and equipment in return. The trades provided the Sheriff's Office with all of its new service weapons in that time, a total of 362 handguns. However, these trades included 927 handguns that did not meet the definition of potential value and should have been destroyed. The list of 410 weapons currently pending trade includes 164 handguns that are not of potential value. Audit staff calculated that destroying those handguns would decrease revenues from gun trades by at least 32%.

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### **FINDING 2-3 (Page 12)**

**The Current King County Code Requirements for Disposition of Firearms Are Based in Part on Outdated Assumptions.**

The council changed the code in 1993 to allow the trade of some handguns, instead of destroying all of them as previously required. The preamble to the ordinance stated that the reason for the change was the "dual financial burden" of losing the revenues the handguns would bring in trade and having to pay a

fee to the state for destroying the guns. Per state law, the county has to pay \$25 for every handgun it destroys that was forfeited before June 30, 1993, to a maximum of \$50,000. However, with the passage of time fewer handguns dating from 1993 or earlier are left. Since part of the reason for the current requirements is becoming immaterial, the council may want to revisit the issue of which firearms should be destroyed and which should be traded.

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**FINDING 2-4 (Page 15)      The Property Management Unit's System Does Not Have an Automated Inventory System, Making It Time Consuming and Inefficient to Track Weapons.**

The PMU does not have an automated system for inventorying evidence. Weapons are tracked on a number of different systems, which is time-consuming and results in duplication of data entry. The unit also cannot provide some information, such as a list of all guns that are evidence in active cases. Furthermore, the system for numbering guns that enter the unit is not sequential, although this is an important inventory control.

The PMU is scheduled to get a Tracking Evidence and Supply System (TESS) by early 2000, in time for the unit's move to a new facility. The system is supposed to issue a unique bar-coded number to every incoming weapon, track weapons, and generate reports on their current location.

**The study recommended** that the Sheriff's Office work to ensure that implementation of TESS is completed by February 2000. Implementation should include a comprehensive review of the inventory process in order to eliminate redundant data entry.

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**Other Issues (Page 19)**      This study was prompted by the introduction of an ordinance that would have required the Sheriff's Office to destroy all rifles and

shotguns that were used in a crime of violence or that met the federal definition of semiautomatic assault weapons, unless they could be returned to the owner. The ordinance was dropped due to concerns that destroying forfeited rifles or shotguns would violate state law. However, state law allows local jurisdictions to dispose of firearms forfeited after June 30, 1993, in any manner the legislative body determines, with the exception of antiques and curios. Therefore, if similar legislation is planned in the future, there are some issues to be considered:

- Without a change in legislation, it is probably inevitable that some firearms used in homicides will be traded. The code requires that all forfeited rifles and shotguns be traded, and the Sheriff's Office does not have any procedures for identifying and destroying handguns used in homicides.
  - Such legislation would reduce the number of guns traded. Out of a sample of 25 weapons in the current trade list, seven had been taken in connection with a crime of violence, as defined in state law. The list also contained 12 semiautomatic assault rifles, worth \$1,700, that would have been destroyed under the proposed ordinance.
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## **AUDITOR'S MANDATE**

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The Disposition of Firearms was reviewed by the County Auditor's Office pursuant to Section 250 of the King County Home Rule Charter and Chapter 2.20 of the King County Code.



# 1 INTRODUCTION

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## **Background**

The special study of the disposition of firearms was requested by the Metropolitan King County Council and included in the Auditor's Office 1999 workplan. The study was prompted by the introduction of an ordinance that would have required the Sheriff's Office to destroy more firearms than currently allowed under the county code. The ordinance was later dropped due to concerns that it was not consistent with state law; however, its introduction raised questions about the county's current practices and the revenues resulting from those practices.

## **Study Objectives**

The objectives of the study were to determine if the county's practices in the disposition of firearms were in compliance with state and local laws, and to evaluate the financial impact of current practices.

## **Study Scope and Methodology**

The study scope was limited to the disposal of firearms by the Sheriff's Office since 1995. This includes forfeited and unclaimed firearms, as well as surplus service weapons no longer used by the Sheriff's Office.

The study reviewed state and county laws governing the disposal of forfeited and unclaimed firearms, Sheriff's Office Standard Operating Procedures for disposing of weapons and handling incoming property, and records from the Property Management Unit of the Sheriff's Office relating to the disposal of firearms. Audit staff also interviewed property management staff in the Sheriff's Office, other local jurisdictions, and the Washington State Patrol to determine their practices in firearms disposal.

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# 2 DISPOSAL OF FIREARMS

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## **The Sheriff's Office Disposes of Forfeited Firearms and Its Own Surplus Firearms**

The majority of firearms that the Sheriff's Office disposes of are forfeited firearms. Guns become forfeited in one of two ways:

- they were ordered forfeited by a court for reasons specified in state law (e.g., being used in a crime or in violation of a court order); or
- they were forfeited through failure to claim the weapon. These weapons were seized by the police during an arrest or while executing a search warrant and either were not claimed afterwards or could not legally be returned to the owner (e.g., a felon prohibited from owning firearms).

The Sheriff's Office also disposes of its own surplus weapons that are no longer suitable for service use.

## **State Law Allows Local Jurisdictions to Dispose of Forfeited Weapons in Any Manner They Want, With One Exception**

The provisions of state law for disposing of firearms differ depending on when the guns were forfeited. Local jurisdictions have the authority to decide how they want to dispose of firearms forfeited after June 30, 1993, with one exception: Firearms categorized as antiques, relics, or curios by the federal Bureau of Alcohol, Tobacco and Firearms (ATF) have to be traded or auctioned. The jurisdiction has to pay the state \$25 for every handgun it destroys that was forfeited before June 30, 1993, to a maximum of \$50,000. Rifles and shotguns forfeited before then must be traded or auctioned.

## **The County Code Imposes Further Restrictions**

The county code imposes further restrictions on the disposal of forfeited firearms:

- Rifles and shotguns must be traded or auctioned.

- Handguns that meet the code definition of “weapons of potential value” (see Finding 2-1 for detailed discussion) can be traded for new service handguns for the Sheriff’s Office or the Department of Adult Detention; if not traded, they must be destroyed.
- All other handguns (i.e., those that do not meet the code definition of weapons of potential value) must be destroyed.

Additionally, the county code requires that surplus service weapons from the Sheriff’s Office be traded for new service handguns or be destroyed.

**The Property  
Management Unit Is  
Responsible for  
Disposal of Forfeited  
Weapons**

The Property Management Unit (PMU) in the Sheriff’s Office is responsible for receiving and disposing of forfeited property, including firearms. The PMU destroys firearms by melting them down at a local foundry or trades them to licensed dealers. When there are enough weapons for a trade, the PMU compiles a list of the firearms to be traded and specifies model and make of the new service weapons it wants in return. The Invitation-to-Bid stipulates that the trade is to be at no cost to the county, and the bid is awarded to the dealer who offers the highest number of new weapons in trade.

**The Sheriff’s Office Receives New Weapons in Trade**

When putting together a bid list, the PMU calculates the Blue Book value of the firearms on the list, but the total value of the new weapons that it receives in trade is less than that. The trade-in value fluctuates considerably, depending on the market for firearms at the time. The highest percentage of the book value that the county received in trade was 64%, in 1997; the lowest percentage was 35% in 1998. Overall, the trade-in value has averaged 46% of the book value.

**FINDING 2-1**

**THE SHERIFF'S OFFICE IS NOT IN COMPLIANCE WITH THE REQUIREMENTS OF THE KING COUNTY CODE FOR FIREARMS DISPOSAL. THE OFFICE HAS TRADED SOME FIREARMS THAT SHOULD HAVE BEEN DESTROYED, AND HAS ALSO TRADED FIREARMS FOR ITEMS OTHER THAN NEW SERVICE HANDGUNS.**

**The Code Requires Destruction of All Handguns That Do Not Meet Its Definition of Potential Value**

As discussed above, the county code requires that all forfeited handguns that are not handguns of potential value be destroyed. The code defines handguns of potential value as those that meet all of the following criteria:

- Accepted as duty weapons by law enforcement agencies;
- Manufactured after 1945;
- Condition graded "good" or better per National Rifle Association standards;
- Valued at \$150 or more; and
- Made by one of eleven listed manufacturers.

Handguns of potential value can be traded for new service handguns; if not traded, they must also be destroyed. (See Appendix 1 for the full text of the code.)

**The Sheriff's Office Has Been Trading Handguns That Are Not of Potential Value**

Since at least 1997, however, the Sheriff's Office has been destroying only illegal or unsafe firearms and trading all others. Of 2,277 weapons traded in the last two years, 927 (41%) were handguns that did not meet the code definition of potential value and should have been destroyed. In the list of 410 weapons currently ready to go out for trade, 164 (40%) were handguns that were not of potential value. (See Finding 2-2 for a discussion of the total numbers of weapons traded and destroyed and the financial impact of destroying handguns that are not of potential value.)

**The County Code  
Requires That Trades  
of Handguns and  
Surplus Service  
Weapons Are for  
Service Handguns**

The county code also requires that if handguns of potential value or surplus service weapons are traded, the trade must be for service handguns. However, one weapons trade that included handguns was for police equipment (an ammunition incinerator and spiked strips for puncturing car tires). In addition, the Special Operations Section acquired 12 rifles, rather than handguns, in exchange for some surplus weapons. It should be noted that the code does not impose a similar restriction on the trade of forfeited rifles and shotguns; if these trades had involved only forfeited rifles and shotguns, they would have met the requirements of the code.

**Sheriff's Office  
Standard Operating  
Procedures Do Not  
Reflect County Code  
Requirements**

PMU staff said that they were unaware of the restrictions on firearms that could be traded. Indeed, the Sheriff's Office Standard Operating Procedures (SOPs) do not reflect the requirements of the county code. The SOPs state that only unsafe or illegal weapons are to be destroyed and all others are to be traded. The SOPs also do not state that forfeited and surplus handguns can be traded only for new service handguns.

In a related compliance issue, audit staff found that officers often did not document in PMU records that they had notified the gun owner of the disposition of his or her weapon, as required by state law. When a weapon is no longer needed as evidence, the detective or officer handling the case fills out a form authorizing the PMU to dispose of it. The form has an area to fill out to indicate that the officer has notified the owner that s/he must claim the weapon within sixty days or that it will be disposed of, or to indicate the reason why they did not notify the owner. However, in many of the files that audit staff reviewed, officers were not filling out this section and thus there was no record of their compliance with state law.

***Sheriff's Response to Finding 2-1***

*"As of December 1998, KCSO is in compliance with the King County Code for firearms disposal."*

**Auditor's Comment**

As discussed in this finding, the list of 410 weapons that were ready to be traded in April 1999 contained 160 handguns that should have been destroyed per the code. While the Sheriff's Office may have been aware in December 1998 that it was not in compliance with the code requirements for firearms disposal, it had not implemented the requirements by April of this year.

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**RECOMMENDATIONS****2-1-1**

The Sheriff's Office, with the assistance of the Sheriff's Legal Advisor, should rewrite its Standard Operating Procedures to be consistent with all of the King County Code requirements for the disposition and trade of firearms.

***Sheriff's Response***

*"By September 30, 1999, KCSO will rewrite the Standard Operating Procedures to be consistent with the King County Code requirements for disposition and trade of firearms."*

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**2-1-2**

The Sheriff's Office should require officers to fill out all of the "Request for Updated Disposition of Stored Evidence" form to indicate that the weapon's owner was given a sixty-day notice of the disposal of his or her property, or state the reason why the owner was not notified.

***Sheriff's Response***

*"By General Information bulletin, KCSO will reemphasize to deputies and supervisors that they must fill out the entire "Request for Updated Disposition of Stored Evidence" to indicate specifically that the weapon's owner was given the statutory notice of disposal of the property or indicate specifically why the owner was not notified. Improper or incomplete forms will be denied in PMU."*

**FINDING 2-2**

**SINCE 1997, THE SHERIFF'S OFFICE HAS TRADED OVER 2,000 FORFEITED AND SURPLUS WEAPONS FOR \$156,000 WORTH OF EQUIPMENT, ACQUIRING ALL OF ITS SERVICE WEAPONS THROUGH TRADES. COMPLIANCE WITH THE COUNTY CODE WILL REDUCE REVENUES FROM FIREARM TRADES BY APPROXIMATELY ONE-THIRD.**

Before 1997 the PMU was trading and destroying weapons sporadically. Sheriff's Office records show that there was only one trade of weapons between 1993 and 1997, in October 1995. In 1997, with a change in management and the addition of two new staff, the unit began working through the backlog of accumulated firearms. There have been four trades of weapons since then and the unit currently has another list of weapons ready for trade. The exhibit below shows the numbers of weapons traded and destroyed since 1997, the book value of the traded weapons, and the revenues realized from the trades, as well as the weapons currently ready for disposal.

<b>EXHIBIT</b>						
<b>Disposition of Firearms by the Sheriff's Office</b>						
<b>Type of Weapon</b>	<b>Disposals Since 1997</b>			<b>Disposals Pending</b>		
	<b>Number Traded</b>	<b>Book Value</b>	<b>Number Destroyed</b>	<b>Number to be Traded</b>	<b>Book Value</b>	<b>Number to be Destroyed</b>
Rifles & Shotguns	485	\$80,582	115	132	\$17,585	23
Handguns	1,146	\$180,883	84	205	\$31,700	5
Surplus Weapons	366	\$74,780	0	7	\$1,588	0
Airguns	280	\$5,793	38	66	\$1,065	4
Unknown	0	\$0	9	0	\$0	0
<b>TOTAL</b>	<b>2,277</b>	<b>\$342,038</b>	<b>246</b>	<b>410</b>	<b>\$51,938</b>	<b>32</b>
Trade-In Value Realized		\$155,799			\$28,566*	

\*The trade-in value for weapons to be traded is based on Sheriff's staff projected trade-in ratio of 55%.

SOURCE: Property Management Unit Records



**The Sheriff's Office  
Has Realized Almost  
\$156,000 From Gun  
Trades**

As shown in the exhibit, since 1997 the PMU has traded 2,277 weapons and received \$155,800 worth of service weapons and equipment in return.<sup>1</sup> The pending bid list contains another 410 weapons, with a book value of almost \$52,000. Based on a strong market for firearms, PMU staff estimate a relatively high trade-in ratio of 55%, for an estimated trade-in value of \$28,566. In the same period, the Sheriff's Office destroyed 246 illegal or unsafe weapons, 10% of all of the weapons disposed of, and currently has 32 weapons awaiting destruction.

**The Sheriff's Office  
Has Acquired All of Its  
Weapons Since 1997  
Through Trades**

Trading forfeited and surplus weapons has enabled the Sheriff's Office to be self-sufficient in firearms since 1997. The Sheriff's Office has acquired all of its new service weapons through gun trades, a total of 362 new Glock .40 caliber handguns. The only other weapons acquired during this time were 12 rifles, worth \$8,188, in a trade conducted by the Special Operations Section.

However, since the Sheriff's Office has not been complying with code requirements to destroy handguns that do not meet the definition of potential value, gun trades included a number of handguns that should have been destroyed. Audit staff reviewed the lists of weapons traded in the last three years and identified 927 handguns that were not handguns of potential value. Based on the relative value of those guns to the total value, audit staff calculated that destroying those handguns would have decreased revenues from the trades by \$50,532, or 32%.

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<sup>1</sup> Airguns are shown in the exhibit although under state law they are not firearms. They are included here because trades were for the bid list as a whole and so audit staff could not separate the trade-in value of airguns from the total. However, the value of the airguns is so low (only 2% of the total) that their inclusion has very little effect on the overall value of the weapons traded.

**Compliance With the  
County Code Will  
Decrease Revenues  
From Gun Trades by  
at Least 32%**

The current list of weapons to be traded contains 164 handguns that are not of potential value, with a book value of \$18,345. Audit staff eliminated those handguns from the list and, using the PMU's anticipated trade-in ratio of 55%, calculated that destroying them would decrease revenues from the pending trade from \$28,566 to \$10,090, or 35%. Thus, audit staff conclude that destroying handguns that are not of potential value would reduce revenues from future trades by at least 32%.

Because the PMU has been working through a backlog of weapons, the volume of guns traded over the last two years has been higher than would normally be expected. Based on the average volume and value of weapons traded since 1995, audit staff expect that a reasonable projection of future disposals would be at least 600 firearms per year, with a book value of approximately \$90,100. If the trade-in ratio continues at 46% as averaged in the past, reducing that amount by 32% would result in an annual loss of \$13,260 to the Sheriff's Office.

**Other Effects of  
Compliance With the  
County Code**

**Compliance With the Code Will Result in Payments to  
the State for Some Handguns That Are Destroyed**

As noted above, state law requires that jurisdictions pay the state \$25 for every handgun forfeited before June 30, 1993 that they destroy. On the other hand, the county code requires the Sheriff's Office to destroy all handguns that do not meet its definition of handguns of potential value. In the current list of weapons to be traded, there are 16 handguns that do not meet the definition of potential value and were forfeited before June 30, 1993. Implementing the requirements of the code will therefore require the county to pay the state \$400 for destroying those handguns. Of course, it is reasonable to expect that the number of handguns dating from 1993 or earlier will decrease with every trade until this fee is no longer applicable.

**Identification of Antiques Is Crucial If Not All Weapons Are Not Traded**

Moreover, once PMU staff start destroying handguns that are not of potential value, it becomes crucial to identify any that are antiques and curios per the ATF definition. This is in order to avoid violating state law by inadvertently destroying those weapons and possibly incurring a lawsuit. Because of the difficulty of identifying antiques and curios, the city of Seattle, which destroys all other forfeited firearms, hires an expert in firearms to do that. PMU staff stated that they would need training in order to identify antiques and curios because only one person in the unit has any experience in firearms identification.

**Summary of Effects of the County Code on the Disposition of Firearms**

In summary, the major effects of the county code requirements for the disposition of firearms are to:

- restrict forfeited handguns that the Sheriff's Office can trade to weapons commonly accepted as duty weapons;
- eliminate cheaper handguns from trades;
- eliminate semi-automatic assault-type handguns from trades, but not rifles or shotguns, which constitute the majority of assault weapons;
- decrease revenues from gun trades by one-third;
- necessitate identification of all handguns considered antiques or curios per the ATF definition;
- limit the weapons that can be acquired through trades of handguns and surplus weapons to service handguns; and
- necessitate payment to the state of \$25 for every handgun the county destroys that was forfeited before June 30, 1993.

**RECOMMENDATION**

- 2-2-1** The Sheriff's Office should consider the options of providing training in firearms identification for Property Management Unit staff, or hiring an expert to review all weapons slated for destruction and identify those classified as antiques, relics or curios by the federal Bureau of Alcohol, Tobacco and Firearms.

***Sheriff's Response***

*"KCSO will explore the cost of training current employees or contracting an expert to review all weapons slated for destruction to identify those classified as antiques, relics or curios by the Bureau of Alcohol, Tobacco, and Firearms. This cost will be included in future PMU Budget requests."*

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**FINDING 2-3**

**THE CURRENT KING COUNTY CODE REQUIREMENTS FOR THE DISPOSITION OF FIREARMS ARE BASED IN PART ON OUTDATED ASSUMPTIONS. IN ADDITION, SOME HOUSEKEEPING CHANGES TO THE CODE ARE NEEDED.**

In mid-1993 the King County Council passed an ordinance requiring the (then) Department of Public Safety (DPS) to destroy all forfeited and surplus handguns that the department did not keep for its own use. Accordingly, DPS destroyed 732 handguns in July and August 1993 and King County paid the state fee of \$25 for every handgun destroyed, a total of \$18,300.

In late 1993, the council revisited the issue of firearms disposal and passed an ordinance allowing DPS to trade some handguns (i.e., handguns of potential value and surplus service weapons) instead of destroying all of them. The preamble to the ordinance stated that "Destruction of such firearms places a dual financial burden impact on King County and the taxpayers of King County in that King County is required to pay to the state a fee for each

such firearm that is destroyed, and King County loses the financial value that such firearm may provide in trade-in for new law enforcement equipment...”

**Part of the Reason for  
Code Requirements Is  
Becoming Immaterial**

While the county did have to pay the fee for destroying handguns forfeited before July 1993, this is not true of weapons forfeited after that. Moreover, with the passage of time most handguns dating from 1993 or earlier have already been disposed of. Thus, it may be a good time to revisit the issue of firearms disposal since part of the reason for the current requirements is becoming immaterial.

**Wording of the State Law Has Created Some Confusion**

In the discussion of legal requirements regarding the disposition of forfeited guns, it is important to note that the rather convoluted wording and organization of the state law have resulted in confusion about its meaning. The confusion arises specifically over whether the restrictions on weapons forfeited before June 30, 1993 also apply to firearms that were forfeited after that, including the \$25 fee for every handgun destroyed. (The text of the state law is in Appendix 2.)

To clarify state requirements, audit staff requested a formal opinion from the King County Prosecuting Attorney's Office (PAO). The PAO opinion states that per state law, the local legislative body may dispose of firearms forfeited after June 30, 1993, in any manner it determines, with the exception of antiques and curios. (A copy of the opinion is in Appendix 3.) A synopsis of the legislation from the state legislature supports the opinion of the PAO.

**The Code Needs Some Housekeeping Changes**

In addition, some housekeeping changes to the code are needed. They are outlined below:

- The definition of antique firearms refers to a definition in a section of the RCW that no longer exists. The RCW now refers to the federal ATF definition of antique firearms. (See Appendix 1 for the full text of the code.)
- “Handguns of potential value” is the term that is defined in the code, but “weapons of potential value” is the term used elsewhere in the code.
- The code defines which handguns do not have potential value but the term is not used elsewhere in the code. Furthermore, since the definition of weapons of potential value effectively eliminates any weapon that would fit the definition of weapon of no potential value, the section describing weapons of no potential value is unnecessary.
- One criterion defining handguns of potential value is “accepted as a duty weapon, or any type, make, model, and calibers normally used by law enforcement, (i.e. caliber .380 or larger).” However, it is not clear from the definition if it refers to law enforcement agencies in the U.S., Washington State, or worldwide.
- Another criterion for handguns of potential value is that they are “manufactured by Smith and Wesson, Colt, Ruger, Beretta, Browning, Walther, Sig/Sauer, Heckler & Koch, Glock, Dan Wesson, and Detonics.” The last “and” should be changed to “or.” In addition, adding language to the list such as “including but not limited to” would prevent it from becoming outdated if firms change names or law enforcement agencies switch to other firearms.

**Sheriff’s Response to Finding 2-3**

*“This finding and related recommendations do not involve KCSO.”*

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**RECOMMENDATIONS**

- 2-3-1** The council should consider revising the section of the King County Code governing firearms disposal to eliminate references to parts of the RCW that no longer exist and clarify the definition of handguns of potential value.
- 2-3-2** The council may want to revisit the issue of which firearms should be destroyed and which should be traded, given that only a small percentage of handguns in the Property Management Unit date were forfeited before June 30, 1993, and so require payment of a fee to the state for their destruction.

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**FINDING 2-4****THE PROPERTY MANAGEMENT UNIT DOES NOT HAVE AN AUTOMATED INVENTORY SYSTEM. THIS MAKES IT TIME-CONSUMING TO TRACK WEAPONS AND THEIR DISPOSITION AND HAS RESULTED IN DUPLICATION OF RECORDS.**

The PMU does not have an automated system for inventorying and tracking evidence. The PMU enters all weapons in a “gun log” when they come into the unit, but the log is not used at all after that. Instead, weapons are tracked on a number of different systems, which is time-consuming and results in duplication of data entry. For example, the list of weapons to be traded is compiled manually rather than being pulled from an existing database. Similarly, the list of weapons to be destroyed is put together at the time they are to be destroyed. If a weapon is not on one of those lists, the only way to find out its status is to look it up manually in the PMU hard copy master file, which is the only place where all of the information on a weapon is stored. In addition, there is some information that the unit cannot track because they track weapons individually. Thus, for example, PMU staff could not provide audit staff with a list of weapons that

had been returned to the owner or a list of weapons currently in use as evidence in active cases.

Furthermore, the system for numbering guns when they enter the unit is not sequential. The investigation incident number is used, which is not sequential. A unique sequential number issued to every gun as it comes into the unit is an important inventory control and was recommended by the State Auditor's Office in 1996 and 1997.

Since 1997, the PMU has been trying to acquire an automated inventory system that would issue a unique bar-coded number to every incoming weapon, track weapons, and generate reports on their current status and location. Development of a Tracking Evidence and Supply System (TESS) was supposed to start in late 1997 and be completed by mid-1998. Work on TESS was delayed while an incident report information system (IRIS) was developed for the Sheriff's Office. A test version of TESS is now loaded on one computer in the PMU, but the unit is still operating with a manual inventory system. The completion of TESS, which includes integration with IRIS, is now scheduled for early 2000, in time for the move of the PMU to a new location.

***Sheriff's Response to  
Finding 2-4***

*"KCSO agrees that the current tracking system is outdated and inefficient. Our past budget requests for technology have been denied, delayed or frozen."*

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**RECOMMENDATION**

**2-4-1**

The Sheriff's Office should work to ensure that implementation of the automated Tracking Evidence and Supply System is completed by February 2000. Implementation should include a comprehensive review of the Property Management Unit inventory and tracking process in order to maximize the capabilities of TESS and eliminate redundant data entry.



***Sheriff's Response***

*"February 2000 is not a realistic date for implementation of the automated Tracking Evidence and Supply System due to the uncertainty of Tech Funding."*

**Auditor's Comment**

During the fieldwork for this study, the scheduled completion for TESS was December 1999. During the technical review of the preliminary draft of this report, staff from the Sheriff's Office indicated that February 2000 would be a more workable time for the completion of the system since the PMU would be moving to a new facility at that time. Accordingly, audit staff recommended a completion time of February 2000. Lack of funding for the project was never raised as an issue by the Sheriff's Office.

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# 3 OTHER ISSUES

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## **The Recently Proposed Ordinance Would Have Required the Sheriff to Destroy More Firearms Than Currently Allowed**

This study was prompted by the introduction of an ordinance that would have required the Sheriff's Office to destroy all rifles and shotguns that were used in a crime of violence<sup>2</sup> or that met the federal definition of semiautomatic assault weapons, unless they could be returned to the owner. (Since under the current code the Sheriff already has to destroy handguns not of potential value, and can destroy other handguns, that part of the code was not changed.) The ordinance was later dropped due to concerns that destroying forfeited rifles or shotguns would violate state law. However, as discussed in Finding 2-3, state law allows local jurisdictions to dispose of firearms forfeited after June 30, 1993, except antiques and curios, in any manner they wish. Consequently, this chapter discusses some of the issues that should be addressed if similar legislation is considered in the future.

- Destroying guns used in a crime of violence would require more extensive recordkeeping in the PMU. PMU records show only the type of investigation at the time the weapon entered the unit, which is not necessarily the charge filed in court. Furthermore, the seizure of a weapon means that it was evidence in a crime, but not necessarily that it was used in the crime. In order for the PMU to tell which weapons were used in a violent crime, the detective handling the investigation would have to update the PMU file by recording the final charges and noting if the weapon was used in the actual commission of the crime.
- Without legislation similar to the recently proposed ordinance, it is probably inevitable that some weapons used in homicides will

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<sup>2</sup> State law specifies crimes of violence, including murder, manslaughter, assault, burglary, and robbery.

be traded. The code currently requires that all rifles and shotguns be traded. Furthermore, the Sheriff's Office does not have any SOPs that call for identifying and destroying handguns used in homicides, when they are no longer needed as evidence.

Audit staff reviewed a list of 60 weapons taken during homicide investigations and found that while almost all of them were still in evidence, two were on the current list to go out for trade. In one case, the detective's case file indicated that the gun on the trade list was not the homicide weapon and the gun used in the homicide had never been recovered. However, in the other case we were unable to determine from the case file if the weapon on the trade list was the homicide weapon or not. Two guns were seized in connection with the case; one was on the current trade list and the other had been returned to the owner.

- The proposed ordinance would have decreased the number of weapons available for trade. Out of a sample of 25 weapons in the current list to be traded, audit staff found that seven were taken during the investigation of a crime of violence.<sup>3</sup> However, as discussed above, the PMU records did not give enough information to make a definite determination that they were actually used in a crime of violence. In addition, forfeited semiautomatic assault rifles would be destroyed, rather than traded as currently required by the code. The current trade list contains 12 semiautomatic assault rifles, with a book value of \$1,700, that would be destroyed. The list also contains nine semiautomatic assault handguns, valued at \$1,450. However, the handguns should already be destroyed under the current code because they are not weapons of potential value.

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<sup>3</sup> It should be noted that the weapons were from older cases, which are more likely to be for serious charges.

## **APPENDICES**

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## APPENDIX 1

### KING COUNTY CODE SECTION 2.16.062

#### **2.16.062 Destruction and disposition of confiscated firearms.**

##### A. Definitions:

1. "Antique firearms" means those firearms as defined by RCW 9.41.150 and firearms recognized as curios, relics, and firearms of particular historical significance by the United States treasury department bureau of alcohol, tobacco and firearms.

2. "Machine gun" means any firearm, weapon, mechanism, or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into such weapon, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

3. "Rifles and Shotguns" means any firearm with a barrel length of twelve inches or longer, but shall not include machine guns as defined in this section.

4. "Surplus firearms" means any firearm previously purchased, or converted to official use in accordance with RCW 63.40.010 by King County for use by the department of public safety or department of adult detention that are no longer serviceable or will become surplus as a result of those departments upgrading to newer weapons for duty service.

5. For purposes of this section only, "Handguns of potential value" means any handgun:

a. accepted as a duty weapon, or any type, make, model, and calibers normally used by law enforcement, (i.e. caliber .380 or larger) and,

b. manufactured after 1945 which has a current version in production after 1975, and would have a "new" retail replacement cost in excess of two hundred dollars each, and,

c. conditioned to operate legally and safely, and,

d. graded as "Good" or better according to National Rifle Association grading scales, and,

e. valued at one hundred fifty dollars or more retail, and,

f. manufactured by Smith and Wesson, Colt, Ruger, Beretta, Browning, Walther, Sig/Sauer, Heckler & Koch, Glock, Dan Wesson, and Detonics.

6. Handguns manufactured by Charter Arms, Harrington and Richardson, Rohm/RG, Rossi, Taurus, Iver Johnson, High Standard and other similar lower value weapons, handguns considered as "assault" type handguns such as the Ingram/Cobray/RPB models M-10 or M-11, Intratec Tech 9, Wilkinson "Linda" or "Diane" and other similar rapid fire semi-automatic handguns normally manufactured and intended to use magazines with capacities in excess of 20 rounds, or handguns manufactured by another but sold under "house" names by department stores and/or discount stores, and/or all handguns caliber .25ACP or smaller with barrels less than 4" in length, and, which are not classified as curios, relics, or collectors arms per the list maintained by the United States treasury department, bureau of alcohol, tobacco and firearms, do not have potential value.

(King County 3-98)

## APPENDIX 1 (Continued)

### ADMINISTRATIVE OFFICES AND EXECUTIVE DEPARTMENTS

2.16.062

B. Inventory, destruction and disposition. Within thirty (30) days of the effective date of this section (May 7, 1993) the sheriff shall have prepared an inventory of every firearm that has been judicially forfeited, has been seized and may be subject to judicial forfeiture, or that has been, or may be, forfeited due to a failure to make a claim under RCW 63.32.010, 63.35.020, or 63.40.010, or that is no longer needed for evidence. This inventory shall be updated annually and include a report on the destruction and disposal of firearms included in the inventory.

The sheriff shall destroy every firearm in the inventory, according to the plan in paragraph C of this section as approved by the council. Except that:

1. The sheriff may retain legally forfeited firearms solely for agency use.
2. The sheriff shall trade, auction, or arrange for the auction of rifles and shotguns.
3. Antique firearms are exempt from destruction and shall be disposed of by auction or trade to commercial sellers.
4. Surplus weapons and weapons of potential value may be offered as trade-in to law enforcement equipment dealers for the sole purpose of acquiring new handguns for duty use by commissioned members of the department of public safety or department of adult detention. If not offered as trade-in, they shall be destroyed.

C. Report required. The sheriff shall submit a report to the council within thirty (30) days on the inventory of firearms under paragraph B which shall include a plan for the destruction or disposal of all firearms in the inventory.

D. Effective date. This shall take effect upon the effective date of this ordinance. (1/6/94).

E. Severability. If any provision of this section or its application to any person or circumstance is held invalid, the remainder of the section or the application of the provision to other persons or circumstances is not affected. (Ord. 11167 § 1, 1993: Ord. 10767 § 1-5, 1993).

(King County 3-96)



## APPENDIX 2

### REVISED CODE OF WASHINGTON SECTION 9.41.098

#### RCW 9.41.098

**Forfeiture of firearms--Disposition--Confiscation.** (1) The superior courts and the courts of limited jurisdiction of the state may order forfeiture of a firearm which is proven to be:

(a) Found concealed on a person not authorized by RCW 9.41.060 or 9.41.070 to carry a concealed pistol: PROVIDED, That it is an absolute defense to forfeiture if the person possessed a valid Washington concealed pistol license within the preceding two years and has not become ineligible for a concealed pistol license in the interim. Before the firearm may be returned, the person must pay the past due renewal fee and the current renewal fee;

(b) Commercially sold to any person without an application as required by RCW 9.41.090;

(c) In the possession of a person prohibited from possessing the firearm under RCW 9.41.040 or 9.41.045;

(d) In the possession or under the control of a person at the time the person committed or was arrested for committing a felony or committing a nonfelony crime in which a firearm was used or displayed;

(e) In the possession of a person who is in any place in which a concealed pistol license is required, and who is under the influence of any drug or under the influence of intoxicating liquor, as defined in chapter 46.61 RCW;

(f) In the possession of a person free on bail or personal recognizance pending trial, appeal, or sentencing for a felony or for a nonfelony crime in which a firearm was used or displayed, except that violations of Title 77 RCW shall not result in forfeiture under this section;

(g) In the possession of a person found to have been mentally incompetent while in possession of a firearm when apprehended or who is thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

(h) Used or displayed by a person in the violation of a proper written order of a court of general jurisdiction; or

(i) Used in the commission of a felony or of a nonfelony crime in which a firearm was used or displayed.

(2) Upon order of forfeiture, the court in its discretion may order destruction of any forfeited firearm. A court may temporarily retain forfeited firearms needed for evidence.

(a) Except as provided in (b), (c), and (d) of this subsection, firearms that are: (i) Judicially forfeited and no longer needed for evidence; or (ii) forfeited due to a failure to make a claim under RCW 63.32.010 or 63.40.010; may be disposed of in any manner determined by the local legislative authority. Any proceeds of an auction or trade may be retained by the legislative authority. This subsection (2)(a) applies only to firearms that come into the possession of the law enforcement agency after June 30, 1993.

By midnight, June 30, 1993, every law enforcement agency shall prepare an inventory, under oath, of every firearm that has been judicially forfeited, has been seized and may be subject to judicial forfeiture, or that has been, or may be, forfeited due to a failure to make a claim under RCW 63.32.010 or 63.40.010.

(b) Except as provided in (c) of this subsection, of the inventoried firearms a law enforcement agency shall destroy illegal firearms, may retain a maximum of ten percent of legal forfeited firearms for agency use, and shall either:

(i) Comply with the provisions for the auction of firearms in RCW 9.41.098 that were in effect immediately preceding May 7, 1993; or

(ii) Trade, auction, or arrange for the auction of, rifles and shotguns. In addition, the law enforcement agency shall either trade, auction, or arrange for the auction of, short firearms, or shall pay a fee of twenty-five dollars to the state treasurer for every short firearm neither

## APPENDIX 2 (Continued)

auctioned nor traded, to a maximum of fifty thousand dollars. The fees shall be accompanied by an inventory, under oath, of every short firearm listed in the inventory required by (a) of this subsection, that has been neither traded nor auctioned. The state treasurer shall credit the fees to the firearms range account established in RCW 77.12.720. All trades or auctions of firearms under this subsection shall be to licensed dealers. Proceeds of any auction less costs, including actual costs of storage and sale, shall be forwarded to the firearms range account established in RCW 77.12.720.

(c) Antique firearms and firearms recognized as curios, relics, and firearms of particular historical significance by the United States treasury department bureau of alcohol, tobacco, and firearms are exempt from destruction and shall be disposed of by auction or trade to licensed dealers.

(d) Firearms in the possession of the Washington state patrol on or after May 7, 1993, that are judicially forfeited and no longer needed for evidence, or forfeited due to a failure to make a claim under RCW 63.35.020, must be disposed of as follows: (i) Firearms illegal for any person to possess must be destroyed; (ii) the Washington state patrol may retain a maximum of ten percent of legal firearms for agency use; and (iii) all other legal firearms must be auctioned or traded to licensed dealers. The Washington state patrol may retain any proceeds of an auction or trade.

(3) The court shall order the firearm returned to the owner upon a showing that there is no probable cause to believe a violation of subsection (1) of this section existed or the firearm was stolen from the owner or the owner neither had knowledge of nor consented to the act or omission involving the firearm which resulted in its forfeiture.

(4) A law enforcement officer of the state or of any county or municipality may confiscate a firearm found to be in the possession of a person under circumstances specified in subsection (1) of this section. After confiscation, the firearm shall not be surrendered except: (a) To the prosecuting attorney for use in subsequent legal proceedings; (b) for disposition according to an order of a court having jurisdiction as provided in subsection (1) of this section; or (c) to the owner if the proceedings are dismissed or as directed in subsection (3) of this section.

[1996 c 295 § 10; 1994 sp.s. c 7 § 414; 1993 c 243 § 1; 1989 c 222 § 8; 1988 c 223 § 2. Prior: 1987 c 506 § 91; 1987 c 373 § 7; 1986 c 153 § 1; 1983 c 232 § 6.]

**Finding--Intent--Severability--1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date--1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

**Effective date--1993 c 243:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 7, 1993]." [1993 c 243 § 2.]

**Severability--1989 c 222:** See RCW 63.35.900.

**Legislative findings and intent--1987 c 506:** See note following RCW 77.04.020.

**Legislative finding, purpose--Severability--1987 c 373:** See notes following RCW 46.61.502.

**Severability--1983 c 232:** See note following RCW 9.41.010.

## APPENDIX 3

### OPINION ISSUED BY THE OFFICE OF THE PROSECUTING ATTORNEY

OFFICE OF THE PROSECUTING ATTORNEY  
KING COUNTY, WASHINGTON  
CIVIL DIVISION

Norm Maleng  
Prosecuting Attorney

E550 King County Courthouse  
516 Third Avenue  
Seattle, Washington 98104  
(206) 296-9015  
FAX (206) 296-0191

24 August 1999

Nancy McDaniel, Management Auditor  
King County Auditor's Office  
516 Third Avenue, Rm. 402  
Seattle WA 98104

Dear Ms. McDaniel:

You have asked this office for an opinion pertaining to RCW 9.41.098 which establishes the manner in which firearms acquired by the Sheriff through forfeiture may be disposed. Your questions were as follows:

1. Whether RCW 9.41.098(2)(b) applies only to firearms forfeited before June 30, 1993 or to firearms acquired both before and after June 30, 1993?
2. If subsection (2)(b) is not currently applicable, which takes precedence in determining how unclaimed firearms must be disposed of, RCW 9.41.098(2)(a) or RCW 63.40.010?
3. Does RCW 9.41.290 limit in any way how jurisdictions can dispose of forfeited firearms?

#### SHORT ANSWERS

In answer to Question 1, RCW 9.41.098(2)(b) applies to firearms forfeited before June 30, 1993.

In answer to Question 2, the statutes can be read in harmony with one another and, therefore, do not need to be prioritized.

In answer to Question 3, the limitation on how jurisdictions can dispose of forfeited firearms is limited only by State law.

#### ANALYSIS

##### Question 1:

You have asked whether the Council can enact legislation disposing of forfeited firearms in any manner it wants or whether it is limited by state law. RCW 9.41.098 prescribes the manner in which firearms, forfeited by court order, may be disposed.

Subsection (2)(a) applies to forfeited firearms that come into the possession of the law enforcement agency after June 30, 1993. It allows the local legislative authority to dispose of

## APPENDIX 3 (Continued)

Prosecuting Attorney  
King County

Nancy McDaniel  
24 August 1999  
Page 2

forfeited and unclaimed weapons in any manner it determines, with the limitation of subsection (2)(c), that states that antiques and curios may not be destroyed, but must be auctioned or traded.

This interpretation of the statute is based on two considerations. The first is that subsection (2)(b) applies only to "inventoried" firearms.<sup>1</sup> According to subsection (2)(a), an inventory shall be prepared by June 30, 1993 of all forfeited firearms currently in the possession of the law enforcement agency. The second consideration is that subsection (2)(b)(ii) is a one-time payment to the state for every handgun in the possession of the law enforcement agency before June 30, 1993 that is not auctioned or traded, to a maximum of \$50,000. These assumptions, I believe, are the correct interpretation of the statute.

The alternative reading of the statute is that subsection (2)(b) applies to weapons that come into the possession of the local law enforcement authority before and after June 30, 1993. This is based on the fact that subsection (2)(b) is mentioned specifically as an exception to the provisions of subsection (2)(a). However, this reading of the statute nullifies the language of (2)(a) that allows the local legislative authorities to dispose of firearms in a manner it determines appropriate. A better reading is that subsection (2)(b) is an exception to (2)(a) because it only applies to firearms in possession of the law enforcement agency before June 30, 1993. One of the rules of statutory interpretation is that a statute should not be read in such a way as to render a portion of it superfluous or a nullity. My interpretation of RCW 9.41.098 is guided by this rule.

### Question 2:

You have also asked which statute takes precedence in determining how unclaimed firearms must be disposed of, RCW 9.41.098(2)(a) or RCW 63.40.010. I read the statutes as consistent with each other. RCW 9.41.098(2)(a) speaks to the manner of disposition of guns that are in the hands of the sheriff because of a court-ordered forfeiture; RCW 63.40.010 speaks to firearms obtained by the sheriff in any other manner and directs that they shall be disposed of as directed in RCW 9.41.098(2). RCW 63.40.010(2). When RCW 9.41.098(2)(a) is read so as to allow the local legislative authority to destroy guns, it also consistent with RCW 63.40.010(5), which directs as follows:

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<sup>1</sup> Subsection (2)(b) states as follows:

Except as provided in (c) of this subsection, of the inventoried firearms a law enforcement agency shall destroy illegal firearms, may retain a maximum of ten percent of legal forfeited firearms for agency use, and shall either:

- (i) Comply with the provisions for the auction of firearms in RCW 9.40.098 that were in effect immediately preceding May 7, 1993; or
- (ii) Trade, auction, or arrange for the auction of, rifles and shotguns. In addition, the law enforcement agency shall either trade, auction, or arrange for the auction of, short firearms, or shall pay a fee of twenty-five dollars to the state treasurer for every short firearm neither auctioned nor traded, to a maximum of fifty thousand dollars. The fees shall be accompanied by an inventory, under oath, of every short firearm listed in the inventory required by (a) of this subsection, that has been neither traded nor auctioned.

## APPENDIX 3 (Continued)

Prosecuting Attorney  
King County

Nancy McDaniel  
24 August 1999  
Page 3

(5) If the item is not unsafe or illegal to possess or sell, but has been, or may be used in the discretion of the county sheriff, in a manner that is illegal, such item may be destroyed.

Thus, these two statutes may be read as compatible with one another. Another rule of statutory interpretation is that statutes should be read in a manner that gives effect to each or harmonizes each. Read as above, the statutes are not inconsistent and do not need to be prioritized.

### Question 3:

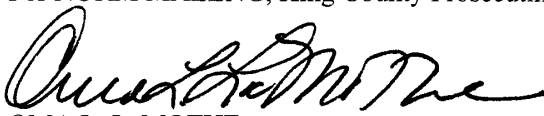
Finally, you have asked whether RCW 9.41.290 has effect on how jurisdictions can dispose of forfeited firearms. RCW 9.41.290 states:

The state of Washington hereby fully occupies and preempts the entire field of firearms regulation within the boundaries of the state . . . Cities, towns, and county or other municipalities may enact only those laws and ordinance relating to firearms that are specifically authorized by state law . . . and are consistent with this chapter.

Since RCW 63.41.010(5) allows the destruction of weapons that have been acquired by the sheriff, RCW 9.41.290 would not preclude the local legislative authority from determining that forfeited firearms should be destroyed. Any other scheme to dispose of firearms would also have to be consistent with state law.

I hope that this analysis is of some assistance to you.

Very truly yours,  
For NORM MALENG, King County Prosecuting Attorney



OMA L. LaMOTHE  
Senior Deputy Prosecuting Attorney

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## APPENDIX 4

### SHERIFF'S RESPONSE

**RECEIVED**

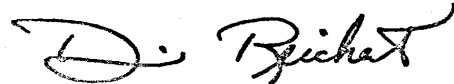
SEP 10 1999

KING COUNTY AUDITOR

**SHERIFF**  
**KING COUNTY**

#### Memorandum

**DATE:** September 10, 1999  
**TO:** Don Eklund, County Auditor  
**FROM:** Dave Reichert, King County Sheriff  
**RE:** Special Study of Disposition of Firearms KCC 2.20.050



Thank you for the opportunity to respond to the Special Study of Disposition of Firearms. We especially appreciate the clarification obtained from the Prosecutor's Office regarding the applicability of the King County Code to the state law and the necessity of the disposal fee.

We reviewed the report and make the following comments.

#### 1. Disagreement with certain findings

- Although KCSO was not in compliance with the Code in 1997 and mid-1998, we have been in compliance since December 1998, when the problem was brought to our attention.
- We believe the report does not reflect the realities that challenged the Property Management Unit (PMU) the last few years
- The report does not reflect the PMU history prior to 1997

**Challenges in Staffing.** Although the report does reference 1997, it does not explain why 1997 was such a pivotal year in the operation of the PMU. During the Spring of 1997, the Property Management Unit had a 100% turnover in commissioned employees. One employee had worked in PMU for 27 years, the other for 13 years. Their simultaneous retirements left a void in institutional and procedural knowledge.

In 1997, KCSO hired Property Management Consultant Joe Latta to do a thorough audit and review of PMU. His findings indicated:

- There was a critical staff shortage
- The lack of adequate staffing combined with the increases in the amount of evidence was both a legal liability and physical hazard.

KCSO requested a 1999 budget increase for PMU for an additional 5 FTE's as evidence specialists. Instead, we were allowed to convert an existing temporary clerical position to a full time clerical FTE.

## APPENDIX 4 (Continued)

*The PMU remains understaffed. To operate effectively, an additional 6 FTE's are required (\$238,146).*

**Challenges in Funding.** In addition to the personnel requests that were denied, PMU also has funding issues impacting the ability to develop and implement the Tracking Evidence and Supply Computer Program (TESS). The County froze the 1999 Technology Fund, effectively stopping the installation and use of the TESS. The availability of the funding is uncertain. If KCSO receives tech bond money, TESS can be implemented at PMU for all incoming evidence. Additional funding will be required to enter the existing inventory and to implement TESS throughout the department.

Until such time, evidence tracking remains a cumbersome and inefficient manual process.

### **2. Agency Action that will be taken to correct deficiencies cited.**

**Finding 2-1.** As of December 1998, KCSO is in compliance with the King County Code for firearms disposal.

**Recommendation 2-1-1.** By September 30, 1999, KCSO will rewrite the Standard Operating Procedures to be consistent with the King County Code requirements for disposition and trade of firearms.

**Recommendation 2-1-2.** By General Information Bulletin, KCSO will reemphasize to deputies and supervisors that they must fill out the entire "Request for Updated Disposition of Stored Evidence" to indicate specifically that the weapon's owner was given the statutory notice of disposal of the property or indicate specifically why the owner was not notified. Improper or incomplete forms will be denied in PMU.

**Finding 2-2.** We concur.

**Finding 2-2-1.** KCSO will explore the cost of training current employees or contracting an expert to review all weapons slated for destruction to identify those classified as antiques, relics or curios by the Bureau of Alcohol, Tobacco, and Firearms. This cost will be included in future PMU budget requests.

**Finding 2-3.** This finding and related recommendations do not involve KCSO.

**Finding 2-4.** KCSO agrees that the current tracking system is outdated and inefficient. Our past budget requests for technology have been denied, delayed or frozen.



## APPENDIX 4 (Continued)

**Recommendation 2-4-1.** February 2000 is not a realistic date for implementation of the automated Tracking Evidence and Supply System due to the uncertainty of Tech Funding.

Thank you again for the Audit. This provides the KCSO with another opportunity to improve the services we provide to the citizens of King County.

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